## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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NOEL MATOS MONTALVO,

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Petitioner, : CIVIL ACTION

:

v. : No. 3:09-CV-00783

(Honorable James M. Munley)

JEFFREY BEARD, Commissioner,

Pennsylvania Department of

Corrections; LOUIS B. FOLINO, : THIS IS A CAPITAL CASE

Superintendent of the State

Correctional Institution at Greene; and MARIROSA LAMAS, Superintendent of the State Correctional Institution at

Rockview,

Respondents.

respondents.

# STATUS REPORT PURSUANT TO THIS COURT'S DECEMBER 5, 2013 ORDER

Petitioner, NOEL MATOS MONTALVO, through counsel, respectfully provides this Court with the following status report, as required by this Court's Order of December 5, 2013:

- 1. On December 4, 2013, Judge Bortner of the York County Court of Common Pleas denied Petitioner relief on his post-conviction relief act petition.
- 2. Briefing in the Pennsylvania Supreme Court was completed on June 26, 2014.
- 3. On April 27, 2015, the Pennsylvania Supreme Court vacated the PCRA court's order denying relief and remanded back to the PCRA court for further proceedings, based on the failure of the PCRA court to make any credibility determinations, findings of fact, or legal conclusions regarding Petitioner's PCRA claims, though ten expert and lay witnesses testified at the PCRA hearing (Opinion attached as Exhibit A). Recognizing the trial judge before whom the previous evidentiary hearings were conducted is no longer on the bench, the Pennsylvania Supreme Court has authorized the Court of Common Pleas to conduct additional hearings and admit evidence, as needed to resolve the claims. The matter is currently pending before the PCRA court.

4. Undersigned counsel continue to review the state court proceedings to determine the impact on Petitioner's federal statute of limitations and the merits of his federal habeas claims.

# Respectfully Submitted,

S/MARSHALL DAYAN
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Dated: May 22, 2015

s/ BETH ANN MUHLHAUSER BETH ANN MUHLHAUSER, ESQUIRE Asst. Federal Public Defender Attorney ID PA 74181 Federal Public Defender Middle District of Pennsylvania Capital Habeas Unit 100 Chestnut Street, Suite 300 Harrisburg, PA 17101 (717) 782-3843 (Beth Muhlhauser@fd.org)

## **CERTIFICATE OF SERVICE**

I, Beth Ann Muhlhauser, Esquire, hereby certify that on this date, I caused the foregoing status report to be served on the following person:

# **VIA Electronic Case Filing**

Jennifer A. Peterson, Esquire
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S/ BETH ANN MUHLHAUSER
Beth Ann Muhlhauser, Esquire

Dated: May 22, 2015